

FILED 10 JAN 13 14:56 USDC-ORN

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JOSEPH THEDEAUS LEFEVER JR.,

Petitioner,

Civ. No. 08-637-CL

v.

**OPINION AND ORDER**

GUY HALL,

Respondent.

**PANNER, District Judge:**

Magistrate Judge Mark D. Clarke filed a Report and Recommendation ("R and R"), and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Petitioner has filed objections, and I have reviewed the file of this case *de novo*. 28 U.S.C. § 636(b)(1)(c); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). With the following addition, I approve the R and R.

Regarding petitioner's ground three claim, petitioner has demonstrated neither cause for the procedural default nor

prejudice resulting therefrom. Additionally, petitioner makes no colorable claim of actual innocence. Therefore, federal habeas review of the defaulted claim is barred. See Coleman v. Thompson, 501 U.S. 722, 750 (1991); see also Schlup v. Delo, 513 U.S. 298, 327 (1995).

**CONCLUSION**

With the addition of my conclusion above, Magistrate Judge Clarke's Report and Recommendation (#21) is adopted. The petition (#1) is denied and this action is dismissed.

IT IS SO ORDERED.

DATED this 13 day of January, 2010.

A handwritten signature in black ink, appearing to read "Owen M. Panner", is written over a horizontal line.

OWEN M. PANNER  
U.S. DISTRICT JUDGE